

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

BENJAMIN RUBY, individually, and on)
behalf of all others similarly situated,)
)
Plaintiff,)
) Case No. 4:21-cv-01152-JAR
v.)
)
BUILD-A-BEAR WORKSHOP, INC.)
)
)
)
Defendant.)

**PLAINTIFF'S MOTION TO REMAND ACTION
TO THE CIRCUIT COURT OF ST. LOUIS COUNTY**

Come now Plaintiff Benjamin Ruby, by his undersigned counsel, pursuant to 18 U.S.C. § 1447, and for his motion to remand action to the Circuit Court of the St. Louis County, states:

1. Defendant Build-A-Bear Workshop, Inc. (“Build-A-Bear”) removed this case brought pursuant to the Telephone Consumer Protection Act from the Circuit Court of St. Louis County, Missouri on September 24, 2021. [Doc. 1].
2. In its notice of removal, Build-A-Bear asserted the case may be removed under 28 U.S.C. 1331 because “this Court has original, federal-question jurisdiction . . .” [Doc. 1, ¶ 3].
3. This matter should be remanded to the Circuit Court of the St. Louis County as Build-A-Bear cannot meet its burden of demonstrating that this Court has subject-matter jurisdiction. Build-a-Bear acknowledges in discovery responses that Plaintiff has not suffered an injury-in-fact, an essential component of Article III standing.
4. As Plaintiff does not have Article III standing, Plaintiff requests the matter be remanded to the Circuit Court of St. Louis County. *See Wallace v. ConAgra Foods, Inc.*, 747 F.3d

1025, 1033 (8th Cir. 2014) (“If … the case did not originate in federal court but was removed there by the defendants, the federal court must remand the case to the state court from whence it came [i]f at any time before final judgment it appears that the district court lacks subject matter jurisdiction.”) (quoting 28 U.S.C. § 1447(c)) (internal quotation marks omitted).

5. With this motion, Plaintiff contemporaneously submits his Memorandum in Support of Motion to Remand.

WHEREFORE Plaintiff Benjamin Ruby prays for an order of the Court remanding this case to the Circuit Court of the St. Louis County, Missouri, Twenty-First Judicial Circuit, and awarding such other relief that this Court deems just and proper.

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By: /s/ David T. Butsch

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 20th day of June, 2022, a true and correct copy of the foregoing document was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon all counsel of record.

/s/ David T. Butsch